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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,130	10/16/2003	Sean Thomas Clark	9323M	7351

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EXAMINER

SUHOL, DMITRY

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 10/13/2006

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MAILED
OCT 13 2006
Group 3700

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/687,130
Filing Date: October 16, 2003
Appellant(s): CLARK ET AL.

MAILED
OCT 13 2006
Group 3700

Matthew P. Fitzpatrick
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/17/2006 appealing from the Office action
mailed 1/13/2006.

(1) Real Party of Interest

A statement identifying by name the real party of interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,168,495	Yoon	1-2001
5,413,488	Gibson et al	5-1995

US 20030118975

Stamm et al

6-2003

Broadlands Community Forums, www.hoa.broadlands.org, post dated June 17, 2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 4-5 and 8-10 are rejected under 35 USC 102(b) as anticipated by Gibson et al. This rejection is set forth in prior Office Action, mailed on January 13th, 2006.

Claim 12 is rejected under 35 USC 102(e) as anticipated by Stamm. This rejection is set forth in prior Office Action, mailed on January 13th, 2006.

Claims 1, 4-7, 9 and 12 are rejected under 35 USC 103(a) as unpatentable over Yoon. This rejection is set forth in prior Office Action, mailed on January 13th, 2006.

Claims 1, 4 and 9-11 are rejected under 35 USC 103(a) as unpatentable over Stamm in view of "Broadlands Community Forums, hereafter referred to as Broadlands. This rejection is set forth in prior Office Action, mailed on January 13th, 2006.

(10) Response to Argument

The appellant's first argument begins at page 4 of the brief, where it is argued that Gibson fails to meet the claimed limitations. Specifically, it is argued that Gibson does not teach that his invention or any portion thereof simulate an experience of a child when the device is used by an adult. In response the examiner points out that in this case the appellants have not defined or claimed what exactly constitutes "a simulation of a child experience" therefore the Gibson reference reads on the claims as broadly claimed by the appellants. For example, (as stated in the Final Office Action) an adult

turning a steering wheel (4) of the educational Gibson device (col. 1, lines 16-18) would inherently receive the same sensation through touch and mechanical response of the wheel as would a child user and when an adult would look upon the toys and/or books of Gibson the adult would receive the same visual stimuli as would a child.

Appellant's further argue (bottom of page 5 into page 6) that the most pertinent definition of simulation is "the imitative representation of the functioning of one system or process by means of the functioning of another" and that the examiner has adopted an overly broad meaning for the term "simulation" which is unreasonable. In response the examiner points out that appellants fail to quantify in the claims what experience of a child is simulated (i.e. is it the motor functions of a child trying to walk, visual functions of a child trying to see, taste of a child trying to eat, dexterity of a child or some other function/experience) and since the appellants have chosen to prosecute broadly constructed claims it is appropriate and reasonable for the examiner to follow MPEP guidelines and give each term its broadest reasonable construction consistent with the specification which in this case appears to be just about any experience of a child. In this case, the process of a child playing with a steering wheel, toys and books and experiencing touching the wheel and seeing the toys or books is simulated during the process of an adult touching the steering wheel and looking at the toys or books. It should be noted that nowhere is it claimed or stated that the experience of the adult and child must be different nor that the object simulating an experience must be a different object for the child user or an adult user and the term simulation as applied by the examiner is consistent with its ordinary meaning. For example, a process and

experiences of a pilot going through preflight procedures in a cabin of a 747 may be simulated to an ordinary individual (non-pilot) sitting in the same cabin and going through the same preflight procedures.

Appellants further continue to argue (middle of page 6 into page 7) that there are numerous examples of structures disclosed in the specification and that although the claims are functional in some respects are a proxy for a class of structures (examples of which are disclosed in their specification). In response the examiner points out that although the claims are read in light of the specification, it would be inappropriate to read limitations from the spec into the claims and therefore it is the position that the claims as constructed by the applicants are overly broad and therefore read onto the Gibson reference as stated above and the previous Office Action.

At the middle of page 7 through the top of page 8, the appellant's appear to argue that the claim limitations of various stages of development and information provided by the aids are somehow different than as described by the examiner since as according to the appellants an adult user would have to develop or use his or her muscles or vision with the Gibson device. In response the examiner points out that no such thing is stated by the examiner, it appears that the appellants are confusing the limitations of claim 1 and claim 4. The passages referred to by the appellant's are directed to the examiners explanation of how the Gibson device and its associated construction and parts meet the limitations of claim 4. In other words claim 4 required that the first and second educational aids be capable of providing information with a first and second aspect of child development, respectively, chosen from the group consisting

of physical development, motor skill, emotional development, sensory development and coordination (**NOTE:** the claim does not specify to whom the information is provided nor who the user of the aid may be as argued by the appellants, the claim merely requires that the aid is capable of providing the above information). Therefore the examiner has taken the position that when the aids when used by children (user) in various stages of development (not adults as argued by the appellants) the aids would in turn provide information regarding the child's developments through the interaction of the child and the aid (i.e. is the child capable of grasping the steering wheel, can the child see the toys or books).

The Appellant's next argument is directed to claim 12 and starts at the middle of page 8. The appellants argue that Stamm fails to meet all of the claimed limitations. Specifically, it is argued that Stamm has not been shown to disclose two or more 3-D interactive aids which provide information to an adult user relating to an aspect of child development corresponding to a particular stage of development and that at best Stamm merely discloses instructional sheets which are not 3-D and not interactive. In response the examiner points out that Stamm teaches 3-D kits (102, read onto interactive educational aids), the kits (102) for a variety of ages/stages containing a variety of 3-D activity items (104, which may include a variety of different items paragraph 0026) and associated instructions (106, figures 5-8 read onto the required indicia) for a caregiver in the manner of play used with items 104. In turn the caregiver would select an age/stage appropriate kit and go about interacting with a child to foster various aspects of child development (paragraphs 0025 and 0026). Therefore, Stamm

clearly anticipates all of the claimed limitations as stated above and in the previous office action.

Appellant's further argue starting at the middle of page 9 that Yoon fails to teach educational aids for simulating experiences of a child in a particular stage of development when used by an adult. In response the examiner points out that he has applied the same reasoning to the Yoon reference as he did to Gibson, that is the first aid (read onto the learning board and second aid (read onto the balls) simulate the experiences such as touch and vision to an adult as they would to a child in a first and second stage of development (**Note:** a first and second stage of development have not been clearly defined by the appellants and in this case are taken to simply mean different aged children with no specific age ranges).

At the bottom of page 10 the appellants argue that the indicia provided on the Yoon educational aids does not communicate the correspondence of the aids to a particular stage of development. In response the examiner points out that in col. 2, lines 52-60 Yoon clearly teaches that his labeling is intended to encourage reading and analytical thought by children and Yoon also discloses that his invention is geared toward use by children of a variety of ages (col. 4, lines 20-26 and 60-64), therefore since the appellants have not clearly defined any particular age group for their stages the educational aids of Yoon clearly fit such limitations since they may be geared toward a variety of ages and since the carry indicia to foster development for the differently aged users and thus communicate the correspondence of the aids to the particular stage.

At the middle of page 11 the appellants appear to first argue that Broadlands is not prior art. In response the examiner maintains the validity of the Broadlands date as prior art. The appellants further argue that Broadlands reference is non-analogous art and that it is not clear whether the Office Action is relying on the statements in the posts or the description of what day care “experts” do. In response the examiner points out that the primary reference to Stamm makes it clear that the system may be used in a day care center (paragraphs 0018 and 0128) while the Broadlands reference is relied upon to teach that it is known to split rooms in such centers by age and since the invention of Stamm is clearly geared toward various stages or ages and may be used in a daycare center it would have been obvious to combine the two references as stated in the Office Action. Appellants once again argue that regarding the term “simulate”, in response the examiner is of the position that the same arguments apply as in the case of Gibson and Yoon where, for example, the experience of a child touching the activity item or seeing the activity item is simulated by an adult interacting with any one of the activity items disclosed in Stamm.


(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

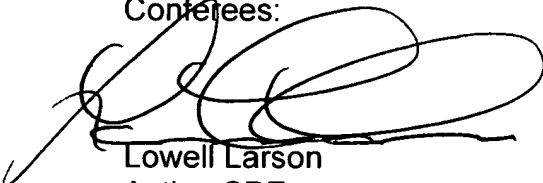
For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

Art Unit: 3725


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